

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:15-cr-00080-JCM-VCF

Plaintiff,

ORDER

v.

GREGORY ALLEN WATERS, II,

Defendant.

Presently before the court are the report and recommendation of Magistrate Judge Ferenbach. (Doc. #59). No objections were filed, and the deadline for filing objections has passed.

Magistrate Judge Ferenbach recommended that defendant's motion to dismiss (doc. #54) be denied.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's findings and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F.Supp.2d 1219, 1226 (D. Ariz. 2003)

1 (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district courts are  
2 not required to review "any issue that is not the subject of an objection."). Thus, if there is no  
3 objection to a magistrate judge's recommendation, then this court may accept the recommendation  
4 without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a  
5 magistrate judge's recommendation to which no objection was filed).


6 Nevertheless, this court finds it appropriate to engage in a *de novo* review to determine  
7 whether to adopt the recommendation of the magistrate judge. Upon reviewing the  
8 recommendation and underlying briefs, this court finds good cause to ADOPT the magistrate  
9 judge's findings in full.

10 Accordingly,

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the report and  
12 recommendation of Magistrate Judge Ferenbach, (doc. #59), are ADOPTED in their entirety.

13 IT IS FURTHER ORDERED that defendant's motion to dismiss (doc. #54) is DENIED.

14 DATED THIS 25<sup>th</sup> day of April 2016.

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17 JAMES C. MAHAN  
18 UNITED STATES DISTRICT JUDGE  
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